S.B.CRIMINAL MISC. PETITION NO.486/2007
(Ravindra Kumar Jain & Ors. Vs. Suman Jain & Anr.)

Date of order : : 28.05.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.Harish Purohit, for the petitioners.
Mr.Kapil Shrimali, for the respondent NO.1.
Mr.Ashok Upadhyay, PP for the State.

Heard learned counsel for the petitioners and the learned Public Prosecutor as well as learned counsel for the respondent No.2.

By this criminal misc. petition under Section 482 Cr.P.C., the petitioners are challenging the order dated 19.3.2007 passed by Judicial Magistrate First Class, Siwana, District Barmer whereby he has refused to attest the compromise arrived at between the parties for offence under Sections 498-A IPC.

Learned counsel for the petitioners states that it is a matrimonial dispute between the parties which has resulted into criminal proceedings against the petitioners under Sections 498-A

pending in the court of Judicial Magistrate, First Class, Siwana, District Barmer. It is contended that that petitioner No1 and respondent-wife) have also got their marriage dissolved by way of mutual consent and obtained divorce under Section 13-A of the Hindu Marriage Act vide order dated 28.7.2004 passed by learned Judge, Family Court No.1, Ahemdabad. Now, they have no grievance against each other. It is further stated that after dissolution of the marriage, the respondent-wfie has already re-married and have a child from the second marriage. Learned counsel for the petitioner further states that since the matter has been compromised between the parties, therefore, a joint application was moved before the court below for dropping of the criminal proceedings pending against the petitioners but the learned Judicial Magistrate has accepted the compromise as far as it relates to the offence under Section 323 I.P.C. and refused to attest the compromise as far as it relates to the offence under Sections 498-A I.P.C. He prays that looking to the facts and circumstances of the case, proceeding pending against the petitioners may be quashed.

In support of his arguments, learned counsel for the

petitioner has placed reliance upon the judgment rendered by Hon'ble Supreme Court in case of B.S. Joshi & Ors. Vs. State of Haryana, reported in (2203) 4 SCC 675.

Learned Public Prosecutor and learned counsel for the respondent have also submitted before me that decree of divorce by mutual consent has been granted by the Family Court and now both the parties are living separately and comprise has entered into between the parties.

I have considered the arguments made by learned counsel for the parties and gone through the record of the case as well as the documents produced before me by the learned counsel for the parties. I have also gone through the judgment cited by learned counsel for the petitioner in case of B.S. Joshi & Ors. (supra) wherein their Lordships while considering the object of introducing Chapter XX-A containing Section 498-A, have observed as under:

> "There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to

> punishing a husband and his relatives who harass or torture the wife to coerce her to her relatives to satisfy unlawful demands of dowry. The hyper technical view would be counterproductive and would act against interest of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code".
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> "In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code".

Taking into consideration the statement made by the learned counsel for the parties, I am satisfied that the parties have genuinely settled their matrimonial dispute and now they have no grievance against each other. In this view of the matter and taking into account the judgment rendered by Hon'ble Supreme Court in case of B.S. Joshi & Ors. (supra), I find it to be a fit case where inherent jurisdiction under Section 482 Cr.P.C. should be exercised.

For the reasons as stated hereinabove, I allow this misc. petition and quash the proceedings against the petitioners

pending in the court of Judicial Magistrate, First Class, Siwana, District Barmer in Criminal Case No.51/2001 for offence under Section 498-A.

(KRISHAN KUMAR ACHARYA), J.

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